



The Commonwealth of Massachusetts
Office of the Commissioner of Banks
One South Station
Boston, Massachusetts 02110

ARGEO PAUL CELLUCCI
GOVERNOR

JANE SWIFT
LIEUTENANT GOVERNOR

THOMAS J. CURRY
COMMISSIONER

March 1, 2001

Mr. Paul Belogour
CEO
FXcentral LLC
120 Sutherland Road, Suite 3
Brighton, MA 02135

Dear Mr. Belogour:

This letter is in response to your correspondence of November 27, 2000 to the Division of Banks (the "Division") relative to whether FXcentral LLC ("FX") can operate foreign currencies exchange service without a foreign exchange transmittal license.

According to your letter, FX has been able to secure a foreign exchange relationship with certain federally chartered banks doing business in the Commonwealth. FX was able to negotiate discount foreign exchange rates and through the use of the Internet and telephone engage banks in a competitive quote/rate offering service. The banks will compete among themselves to offer the best rates in order to win FX's customers. FX will pass discount rates and the most competitive quotes to other Commonwealth and other US companies by redirecting these companies to the bank that offers the most discounted rate at a particular time. FX will charge other companies and businesses a transaction fee for the service while the bank will convert the funds and generate a foreign transmittal. The federally chartered banks will obtain deposits from these customers and transmit the same or equivalents thereof to foreign countries.

Massachusetts General Laws chapter 169, section 1 provides that all persons "who engage or are financially interested in the business of receiving deposits of money for the purpose of transmitting the same or equivalents thereof to foreign countries..." shall be subject to the provisions of chapter 169. An entity subject to this chapter would require a license from the Division and would be subject to applicable bonding requirements and Division regulatory oversight. Federally chartered banks are exempt from the requirements of chapter 169 pursuant to said section 1.

Based on the information in your letter, it does not appear to the Division that FX will be "receiving deposits of money" for transmittal. You state that the federally chartered banks will receive the deposits and transmit the monies to foreign countries. As noted above such banks are exempt from the requirements of chapter 169. The Division has opined on a similar scenario in Opinion No. 98-046(see copy enclosed) and determined that chapter 169 was not applicable. Accordingly, FX would not require a foreign transmittal agency license inasmuch as it will not be receiving deposits of money




Mr. Paul Belogour
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in the Commonwealth for the purpose of transmittal to foreign countries. In the event, FX were to receive deposits in any form from its customers, the Division would require a license.

The conclusions reached in this letter are based solely on the facts presented. Fact patterns which vary from that presented may result in a different position statement by the Division.

Sincerely,

A handwritten signature in cursive script, appearing to read "Joseph A. Leonard, Jr.", written in dark ink.

Joseph A. Leonard, Jr.
Deputy Commissioner of Banks
and General Counsel

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The Commonwealth of Massachusetts

Office of the Commissioner of Banks

Leverett Saltonstall Building, Room 2004

100 Cambridge Street

Boston, Massachusetts 02202

ARGEO PAUL CELLUCCI
GOVERNOR

THOMAS J. CURRY
COMMISSIONER

July 15, 1998

Kelly M. Rice
Keegan, Werlin & Pabian LLP
21 Custom House Street
Boston, MA 02110-3525

Dear Ms. Rice:

This letter is in response to your correspondence to the Division of Banks (the "Division") dated March 9, 1998 regarding any licensing requirements for an international shipping business entity intending to pool its monies with those of other companies thereby providing itself and such companies a more favorable foreign currency exchange rate.

According to your letter and subsequent telephone conversations with the Division, your client (the "Corporation") is engaged in the international shipping business. The Corporation intends to provide itself and other U.S. companies a favorable foreign currency exchange rate by pooling monies in a separate escrow account in a federally-chartered bank in the Commonwealth. After the monies are exchanged in volume, the proper amounts in foreign currency will be remitted back to these companies here in the U.S. Furthermore, the Corporation intends to charge each participating company a transaction fee.

In the Commonwealth, "persons who engage or are financially interested in the business of receiving deposits of money for the purpose of transmitting the same or equivalents thereof to foreign countries" must be licensed by the Division of Banks pursuant to Massachusetts General Laws chapter 169. However, certain banks, express companies, and global transportation companies, among others, are exempt from these licensing requirements. In determining whether a corporation would require a foreign transmittal agency license, the Division has considered 1) whether deposits of money would be accepted for the purpose of transmittal to foreign countries; 2) whether the corporation has a physical or staffed presence in the Commonwealth; 3) whether monies will be transferred to and from accounts in Massachusetts; and 4) which entities are party to the foreign transmittal transaction and where they are located.

Based upon its review, it is the position of the Division that the Corporation would not require a foreign transmittal agency license because it will not be accepting deposits in Massachusetts for the purpose of transmittal to foreign countries. Furthermore, the Corporation and its counsel should review Massachusetts General Laws chapter 169, § 1 to determine whether, regardless of its intended activities, the Corporation may be exempt from any foreign transmittal agency licensing requirements by qualifying as an express company doing international express business or as a global transportation company.



Kelly M. Rice
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Also, in the Commonwealth, no person other than a bank, national banking association or savings and loan association authorized to do business in the Commonwealth may engage directly in the selling of checks without obtaining a license from the Division of Banks pursuant to Massachusetts General Laws chapter 167F, section 4. On the basis that the transfer of the exchanged money by your client to the other corporations, occurs by written check, draft or technological means, the Division would require that your client obtain a license and be bonded under said General Laws chapter 167F, section 4.

Since the name of your client has not been disclosed, the Corporation should also ensure that its name does not implicate other provisions of the General Laws by including the words "bank", "banking", "bankers", "trust" or any other words which may infer that it is an entity regulated by the Division.

The conclusions reached in this letter are based solely on the facts presented. Fact patterns which vary from that presented may result in a different position statement by the Division.

Sincerely,

A handwritten signature in cursive script, appearing to read "Joseph A. Leonard, Jr.", written in dark ink.

Joseph A. Leonard, Jr.
Deputy Commissioner of Banks
and General Counsel

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